IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.4028 OF 2007

IN

SUIT NO.1010 OF 1998

The Bank of Foreign Affairs of
the USSR .. Plaintiffs.

Versus

State Bank of India & Anr. .. Defendants.

Mr.Saeed Akhtar for plaintiffs.
Mr.A.D.Kango for defendant No.3.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 29th October, 2007.

P.C.:

1. This is a suit, which was repeatedly adjourned for recording of evidence at the instance of the plaintiffs and Mr.Akhtar, who requested me to accommodate him. The accommodation was sought as somebody from the plaintiffs was to fly from Russia to instruct the Advocate and also to depose before the Court.

2. Repeatedly, none responded to Mr.Akhtar and therefore, he also did not remain present. Ultimately, after repeated adjournments, I dismissed the suit.

3. Today, the application is made for restoration of the suit on the ground that there was some personal difficulty for the representative of the plaintiffs to come and depose before the Court.

4. Having perused the motion and the affidavit in support, I am satisfied that sufficient cause is made out for non appearance on the date fixed by this Court.

5. In the circumstances, notice of motion is made absolute in terms of prayer clause (a), however, subject to plaintiffs paying costs, quantified at Rs.7,500/- to the defendants. Costs condition precedent. Costs to be paid within a period of one week from today.

6. This order is passed because Mr.Akhtar states that the affidavit in lieu of examination-in-chief and all original documents alongwith the list were ready to be filed in this Court but the Registry refused to accept the same as suit itself was dismissed.

7. If the same is filed in this Court on or before 1st November, 2007, Registry to accept the same upon proof of payment of costs and thereupon the matter would stand adjourned for further proceedings on 4th December, 2007.

8. Notice of motion is made absolute in the above terms. All concerned to act upon an authenticated copy of this order.

(S.C.Dharmadhikari, J.)